

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JAMES R. BURRITT, Assignee for the
Benefit of Creditors of RAM Nationwide,
Inc., RAM Motor Freight, Inc. and RAM
Transportation, Inc.,

Plaintiff,

v.

FRAMAUR ASSOCIATES, L.L.C.,

Defendant.

Civil Action No.: 16-1145 (FLW)

ORDER

THIS MATTER having been opened to the Court by the Magistrate Judge’s Report and Recommendation, dated September 22, 2016, recommending that defendant Framaur Associates L.L.C.’s (“Defendant”) answer be stricken and entry of judgment in favor of plaintiff James R. Burritt (“Plaintiff”) in the principal amount of \$881,141.33, together with pre-judgment interest of \$1,231.18, and costs of suit in the amount of \$400.00; it appearing that Plaintiff is the assignee for the benefit of creditors that performed transportation services for Defendant, pursuant to an agreement, see Complaint; it appearing that the Magistrate Judge held a status conference with the parties on July 14, 2016, during which Plaintiff notified the Magistrate Judge that Defendant had failed to serve discovery responses to Plaintiff, pursuant to a Pretrial Scheduling Order, see Order dated May 24, 2016; it appearing that the Magistrate Judge subsequently entered an Order, see Order dated July 19, 2016, compelling Defendant to serve the outstanding discovery on or before August 15, 2016; it appearing that, on July 22, 2016, defense counsel informed the Magistrate Judge that Defendant no longer intended to defend against Plaintiff’s claims; it appearing that, because Defendant failed to serve the outstanding discovery on or before August 15, 2016, the

Magistrate Judge directed Plaintiff to file an application for default judgment that included a request to strike Defendant's answer, which Plaintiff filed on August 23, 2016; it appearing that Defendant did not file an opposition to the application, and furthermore, defense counsel once again informed the Magistrate Judge that Defendant does not intend to oppose the entry of judgment; it appearing that, based on the Defendant's conduct and its intention to forego the defense of this case, the Magistrate Judge recommends striking the answers and entering judgment in favor of Plaintiff in the principal amount of \$881,141.33, a sum certain for transportation services provided, as evidenced by unpaid invoices, see Declaration of Plaintiff; it appearing that the Magistrate Judge further recommends the award of court costs in the amount \$400, i.e. the filing fee, as well as pre-judgment interest at a rate of .25 percent, which yields an amount of \$1,231.18, see Feit v. Great-West Life and Annuity Ins. Co., 460 F. Supp. 2d 646, 647 (D.N.J. 2006) (stating that a district court sitting in diversity jurisdiction should apply state law with respect to pre-judgment interest, and that "pre-judgment interest may be awarded on contract claims."); see also N.J. Ct. R. 4:42-11(b) (establishing pre-judgment interest rates); it appearing that the Court finds the Magistrate Judge's reasoning sound, particularly since Defendant has failed to produce discovery responses and Defendant does not object to the entry of judgment; it appearing that having reviewed the Magistrate Judge's Report and Recommendation, for the reasons set forth herein, and for good cause shown,

IT IS on this 7th day of November, 2016,

ORDERED that the Magistrate Judge's Report and Recommendation is hereby adopted; and it is further

ORDERED that Defendant's Answer be stricken; and it is further

ORDERED that Entry of Judgment be entered in favor of Plaintiff and against Defendant in the principal amount of \$881,141.33, together with pre-judgment interest of \$1,231.18, and costs of suit in the amount of \$400.00.

/s/ Freda L. Wolfson
The Honorable Freda L. Wolfson
United States District Judge